

(1971) 11 CAL CK 0017
In the Calcutta High Court

Karuna Kant Datt and Others

APPELLANT

Vs

The Coal Board and Another

RESPONDENT

Date of Decision : 29-11-1971

Acts Referred:

Mines Act, 1952 — Section 3, 76

Citation : (1973) CriLJ 1009 : 76 CWN 679

Hon'ble Judges : R.N. Dutt, J

Bench : Single Bench

Judgement

R.N. Dutt, J.—The petitioners are the Directors of Burrakur Coal Co. Ltd. The colliery is known as Saltore Colliery. One Dilbag Singh is the agent and one Md. Qaseem is the manager of the colliery. The Coal Board, opposite party No. 1 in this Rule, filed a complaint against the petitioners as such directors and the said Dilbag Singh and Md. Qaseem for their prosecution under Rule 47 of the Coal Mines (Conservation and Safety) Rules, 1954, for violation of Rule 40 of the said Rules. The petitioners appeared before the Magistrate and thereafter obtained this Rule.

2. Under Rule 40 of the said Rules the owner agent or manager of a coal mine shall give notice in writing of his intention to close the mine not less than ninety days before the date on which it is proposed to close the mine. The short allegation is that no such notice was given for closure of the Saltore colliery. Rule 47 states that any contravention of the Rules shall be punishable with imprisonment which may extend to three months or fine or both. It is alleged that there has been contravention of Rule 40 in the instant case. The agent and the manager have been made accused. The petitioners have been made accused as owners of the colliery. The Rules do not contain a definition of the word "owner". Section 3(1) of the Coal Mines (Conservation and Safety) Act, 1952, states that the word "owner" will have the same meaning as the word "owner" in Section 3 of the Indian Mines Act, 1952. Clause (1) of Section 3 contains the definition of owner. It is not disputed that in the case of a mine owned by a

company the owner will mean the company. Here the colliery is owned by the Burrakur Coal Co. Ltd. and so, the owner will in the instant case mean the company. The petitioners are no doubt the directors of the company; but in terms of the definition of owner as contained in Clause (1) of Section 3 of the Mines Act, 1952. the owner, as I have said, means the company but not the directors personally. Mr. Roy refers to Section 76 of the Mines Act, 1952. where it has been said that where the owner of a mine is a company, all or any of the directors thereof may also be prosecuted. True, Section 76 provides for prosecution of the directors in case the owner is a company, but this is for prosecution of offences under the said Mines-Act. The definition of owner is contained in clause (1) of Section 3 of the Act. But u/s 76 it is specifically said that in the case of the owner being a company the directors may be prosecuted for offences under the Act. Here the prosecution is not for offences under the Mines Act but under the Coal Mines (Conservation and Safety) Rules, 1954. u/s 3 clause (1) of the Coal Mines (Conservation and Safety) Act, 1952. the word "owner" has been given the same meaning as contained in Section 3 of the Mines Act. But Section 76 is not extended to offences under the Coal Mines (Conservation and Safety) Rules 1954. The company being a juristic person, the company as the owner of the colliery is punishable under Rule 47 of the Rules and since there is no specific provision making the directors also personally punishable, the directors as such cannot be prosecuted or. in other words, I hold that Section 76 of the Mines Act is not applicable in the case of prosecution of companies under Rule 47 of the Coal Mines (Conservation and Safety) Rules, 1954. The instant prosecution against them must, therefore, be an abuse of the process of the Court.

3. In the result, the Rule is made absolute. The criminal proceeding now pending against the petitioners under Rule 47 of the Coal Mines (Conservation and Safety) Rules, 1954. is quashed. The Coal Board may, however, seek for process against the company if not otherwise barred when the records will be received; back. The criminal proceeding will, however, continue against the other accused persons. Let the records be sent down at once.